

### **Remarks**

Claims 26-43 are pending in the application. Applicants request reconsideration of these pending claims in view of the remarks below.

### **Priority**

The pending claims have support back to abandoned application 08/097,471, filed July 27, 1993.

### **Rejections Under 35 U.S.C. §103**

In § 4 of the Office Action, the Examiner rejected claims 26 and 39-42 under 35 U.S.C. 103(a) as allegedly obvious over Macklis et al. (Science, Vol. 240, pp. 1024-1026, 1988) in view of Rotmensch et al. (Gynecologic Oncology, 1990, Abstract), van Geel et al. (USPN 5,355,394) and Kozak et al. (Tibtech, vol. 4, no. 10, pp. 259-264 (1986)). Applicant traverses the rejection.

Each of claims 26 and 39-42 specifies that the methods relate to target cells or a pathological site in micrometastases having a diameter of about 1 mm or less. Neither Rotmensch, nor any of the other cited references (Macklis, van Geel and Kozak), discloses micrometastases that specifically have a diameter of about 1mm or less. The Examiner points to no scientific evidence that, as of July 27, 1993, a person of ordinary skill in the art, given this combination of art, would have a reasonable expectation of success of using the claimed methods to target cells or a pathological site in micrometastases having a diameter of about 1 mm or less. Accordingly, applicant requests that the Examiner reconsider and withdraw this ground of rejection.

In § 5 of the Office Action the Examiner rejects claims 27 as obvious over Macklis in view of Rotmensch, van Geel and Kozak and further in view of Greer (U.S. patent 4,894,364). Applicant traverses the rejection.

Claim 27 specifies that the methods relate to target cells or a pathological site in micrometastases having a diameter of about 1 mm or less. Neither Rotmensch, nor any of the other cited references (Macklis, van Geel, Greer and Kozak), discloses micrometastases that specifically have a diameter of about 1mm or less. The Examiner points to no scientific evidence that, as of July 27, 1993, a person of ordinary skill in the art, given this combination of

art, would have a reasonable expectation of success of using the claimed methods to target cells or a pathological site in micrometastases having a diameter of about 1 mm or less. Accordingly, applicant requests that the Examiner reconsider and withdraw this ground of rejection.

In §6 of the Office Action, the Examiner rejected claim 28 as obvious over Macklis in view of Rotmensch, Van Geel, and Kozak and further in view of Turner (US 5,296,216). Applicant traverses these rejections.

Claim 28 specifies that the methods relate to target cells or a pathological site in micrometastases having a diameter of about 1 mm or less. Neither Rotmensch, nor any of the other cited references (Macklis, van Gee, Turner and Kozak), discloses micrometastases that specifically have a diameter of about 1mm or less. The Examiner points to no scientific evidence that, as of July 27, 1993, a person of ordinary skill in the art, given this combination of art, would have a reasonable expectation of success of using the claimed methods to target cells or a pathological site in micrometastases having a diameter of about 1 mm or less. Accordingly, applicant requests that the Examiner reconsider and withdraw this ground of rejection.

In § 7 of the Office Action, the Examiner rejected claims 29 and 43 as obvious over Macklis in view of Rotmensch, Van Geel, and Kozak and further in view of Zamora et al. (US 5,443,816). Applicant traverses these rejections.

Each of claims 29 and 43 specifies that the methods relate to target cells or a pathological site in micrometastases having a diameter of about 1 mm or less. Neither Rotmensch, nor any of the other cited references (Macklis, van Geel, Zamora and Kozak), discloses micrometastases that specifically have a diameter of about 1mm or less. The Examiner points to no scientific evidence that, as of July 27, 1993, a person of ordinary skill in the art, given this combination of art, would have a reasonable expectation of success of using the claimed methods to target cells or a pathological site in micrometastases having a diameter of about 1 mm or less. Accordingly, applicant requests that the Examiner reconsider and withdraw this ground of rejection.

In § 8 of the Office Action, the Examiner rejected claims 26-29 and 39-43 under the judicially created doctrine of obviousness-type double patenting over claims 1-3 of U.S. Patent No. 5,641,471. Although applicant believes the above-referenced claims are non-obvious over

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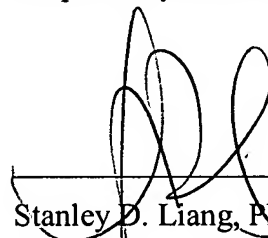
the claims in the cited patent, applicant stands ready to submit a terminal disclaimer to obviate the above-referenced obviousness-type double patenting rejections once the claims are deemed to be in condition for allowance. Until that time, applicant requests the Examiner to hold this rejection in abeyance.

### CONCLUSION

For at least the reasons stated above, we believe that all the pending claims are allowable and therefore ask the Examiner to allow them to issue.

Please apply any charges that may be due, or any credits owed, to Deposit Account No. 08-0219.

Respectfully submitted,

  
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